

STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petitions	:	
of	:	
KAYED AHMED HRBY AND CONEY ISLAND GROCERY, INC.	:	ORDER
		DTA NOS. 819205 AND 819210
for Revision of Determinations or for Refund of	:	
Sales and Use Taxes under Articles 28 and 29 of	:	
the Tax Law for the Period December 1, 1997	:	
through February 28, 2001.	:	

Petitioners, Kayed Ahmed Hrby and Coney Island Grocery, Inc., 2343 Arthur Avenue, Apt. 15, Bronx, New York 10468, filed petitions for revision of determinations or for refund of sales and use taxes under Articles 28 and 29 of the Tax Law for the period December 1, 1997 through February 28, 2001.

On April 22, 2003, petitioners, appearing by Gopaljee Jaiswal, Esq., filed a motion for discovery and a stay of the scheduling of a hearing in the above matters. The Division of Taxation, appearing by Barbara G. Billet, Esq. (Paul J. Connolly, Esq., of counsel), filed a response in opposition dated April 28, 2003.

Upon review of the motion papers, the response filed by the Division of Taxation and the pleadings filed in this matter, Daniel J. Ranalli, Assistant Chief Administrative Law Judge, renders the following order.

ORDER

Petitioners have moved for an order requiring the Division of Taxation ("Division") to furnish the names and addresses of all the individuals who were involved in the audit of the

corporation and of Mr. Hrby, individually. Also, petitioners requested all files, documents, reports and records created in conjunction with the audit.

As the Division contends, and petitioners admit in their motion, this request is clearly one for discovery. The Rules of Practice and Procedure of the Tax Appeals Tribunal at 20 NYCRR 3000.5(a) provide that “motions related to discovery procedures as provided for in the CPLR will not be entertained.” Thus, any type of discovery is specifically prohibited in proceedings before the Division of Tax Appeals. Petitioners’ motion for discovery must therefore be denied.

In light of this order, petitioners’ additional motion to stay the scheduling of a hearing until this motion is disposed of is now moot.

The motion of Kayed Ahmed Hrby and Coney Island Grocery, Inc., is denied and the matters will proceed to hearing on August 6 & 7, 2003 as agreed between the parties.

DATED: Troy, New York
May 8, 2003

/s/ Daniel J. Ranalli
ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE